South Australia

ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

POLICE SUPERANNUATION (MISCELLANEOUS) AMENDMENT ACT 2001

No. 12 of 2001

[Assented to 12 April 2001]

An Act to amend the Police Superannuation Act 1990 and to make a related amendment to the Superannuation Act 1988.

SUMMARY OF PROVISIONS

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Police Superannuation (Miscellaneous) Amendment Act 2001*.

(2) The *Police Superannuation Act 1990* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by striking out "Where" from subsection (7) and substituting "Subject to subsection (7a) where";

(b) by inserting the following subsection after subsection (7):

(7a) An old scheme contributor whose employment terminates on the ground of invalidity in circumstances that entitle the contributor to a benefit under section 31 will only be taken to have retired from employment if he or she had reached the age of 60 years before the employment terminated.

Amendment of s. 10—The Fund

4. Section 10 of the principal Act is amended—

(a) by striking out "two major divisions" from subsection (6) and substituting "three major divisions";

(b) by striking out "the other" from paragraph *(b)* of subsection (6) and substituting "one";

(c) by inserting the following paragraph after paragraph *(b)* of subsection (6):

(c) one proportioned to the aggregate balance of investors' accounts under Part 5A.

Amendment of s. 14—Payment of benefits

5. Section 14 of the principal Act is amended by striking out subsections (2) and (3) and substituting the following subsections:

(2) A proportion of a pension or lump sum paid to, or in relation to, a contributor under this Act will be charged against the contributor's contribution account to the extent of the amount standing to the credit of the account or, if the account has been closed, will be charged against the relevant division of the Fund.

(3) The proportion for the purposes of subsection (2) will—

(a) in the case of a new scheme contributor, be equivalent to the proportion of the benefits payable in the future under Part 4 that can, in the opinion of the Board, be met from the division of the Fund relating to new scheme contributors; and

(b) in the case of an old scheme contributor, be equivalent to the proportion of the benefits payable in the future under Part 5 that can, in the opinion of the Board, be met from the division of the Fund relating to old scheme contributors.

(3a) The opinion of the Board must be based on the most recent triennial report under section 15(4).

Amendment of s. 15—Reports

6. Section 15 of the principal Act is amended—

(a) by striking out "the relevant triennium on" from subsection (4) and substituting "the relevant triennium";

(b) by striking out "the cost" from paragraph *(a)* of subsection (4) and substituting "on the cost";

(c) by striking out paragraph *(b)* of subsection (4) and substituting the following paragraph:

(b) estimating the proportion of future benefits under this Act that can be met from the Fund.

Amendment of s. 21—Retirement

7. Section 21 of the principal Act is amended—

(a) by striking out the formula from subsection (1) and substituting the following formula:

$$LS = 6 \times A \times FS \times \left[1 + \frac{0.2778 \times X}{100}\right] + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(b) by inserting the following definitions after the definition of "X" in subsection (1):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out the formula from subsection (2) and substituting the following formula:

$$LS = 5.4545 \times A \times FS \times \left[1 + \frac{0.1667 \times X}{100}\right] + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(d) by inserting the following definitions after the definition of "X" in subsection (2):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period;

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 22—Resignation and preservation

8. Section 22 of the principal Act is amended—

(a) by striking out subsections (1b) and (1c) and substituting the following subsections:

(1b) The amount of the superannuation payment referred to in subsection (1a) is made up of the following components:

(a) a component being the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act together with interest from the date of resignation; and

(b) where the contributor was a member of the police force at any time during the period commencing on 1 January 1988 and ending on 30 June 1992—a component calculated as follows:

$$C = Pn \left[\frac{AFS \times 1.36 \times M}{480} \right]$$

Where—

C is the component

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring during the period commencing on 1 January 1988 and ending on 30 June 1992—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M is the number of months of the contributor's contribution period occurring during the period commencing on 1 January 1988 and ending on 30 June 1992.

(1c) The amount of interest referred to in subsection (1b)*(a)* will be calculated and credited to the contributor at the end of each financial year and will be calculated on the amount referred to in subsection (1b)*(a)* at the end of the first financial year and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.;

(b) by striking out the formula from subsection (3) and substituting the following formula:

$$LS = (6 \times A \times AFS) + Pn \left[\frac{AFS \times 1.36 \times M}{480} \right]$$

(c) by striking out the formula from subsection (4) and substituting the following formula:

$$LS = (4 \times A \times AFS) + Pn \left[\frac{AFS \times 1.36 \times M}{480} \right]$$

(d) by inserting the following definitions after the definition of "AFS" in subsection (5):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987.;

(e) by striking out "two components" from paragraph *(b)* of subsection (6) and substituting "three components";

(f) by inserting the following word and subparagraph after subparagraph (ii) of paragraph *(b)* of subsection (6)

and

(iii) a component calculated as follows:

$$C = Pn \left[\frac{AFS \times 1.36 \times M}{480} \right]$$

Where—

C is the component

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(g) by striking out subsection (7) and substituting the following subsection:

(7) The employer component referred to in subsection (6)*(b)*(ii) cannot exceed 3.86 times the contributor's adjusted salary immediately before resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation.;

(h) by inserting the following subsection after subsection (8):

(9) Where but for section 46A, benefits would be payable under the Police Occupational Superannuation Scheme to or in relation to a contributor who resigned from employment before the commencement of the *Police Superannuation (Miscellaneous) Amendment Act 2001*, the benefits payable to, or in relation to, the contributor under this section—

(a) will not include the part of the benefit represented by $Pn\left[\frac{AFS \times 1.36 \times M}{480}\right]$ in the relevant formula; but

(b) will include the amount referred to in section 46A(2)*(f)*.

Amendment of s. 23—Retrenchment

9. Section 23 of the principal Act is amended—

(a) by striking out the formula from subsection (2) and substituting the following formula:

$$LS = 5.4545 \times A \times FS \times \left[1 + \frac{0.1667 \times X}{100}\right] + Pn\left[\frac{FS \times 1.36 \times M}{480}\right]$$

(b) by inserting the following definitions after the definition of "X" in subsection (2):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 25—Termination of Employment on invalidity

10. Section 25 of the principal Act is amended—

(a) by striking out the formula from subsection (2) and substituting the following formula:

$$LS = (6 \times A \times FS) + Pn\left[\frac{FS \times 1.36 \times M}{480}\right]$$

(b) by inserting the following definitions after the definition of "FS" in subsection (2):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out "a lump sum payment" from subsection (3) and substituting "a lump sum calculated in accordance with subsection (3a) and a further lump sum payment";

(d) by inserting the following subsection after subsection (3):

(3a) The lump sum referred to in subsection (3) is calculated as follows:

$$LS = Pn \left[\frac{FS \times 1.36 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 26—Death of contributor

11. Section 26 of the principal Act is amended—

(a) by striking out the formula from subsection (2) and substituting the following formula:

$$LS = (5 \times A \times FS) + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(b) by inserting the following definitions after the definition of "FS" in subsection (2):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out "will be the greater of the following amounts" from subsection (5) and substituting "will be the aggregate of an amount calculated under subsection (5a) and the greater of the following amounts";

(d) by inserting the following subsection after subsection (5)

(5a) The amount referred to in subsection (5) is calculated as follows:

$$A = Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

Where—

A is the amount

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(e) by striking out subparagraphs (i) and (ii) of paragraph *(a)* of subsection (6) and substituting the following subparagraphs:

(i) $$LS = (7 \times A \times FS) + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(ii) $$LS = (3 \times FS) + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(f) by striking out the formula from paragraph *(b)* of subsection (6) and substituting the following formula:

$$LS = (7 \times A \times FS) + Pn \left[\frac{FS \times 1.36 \times M}{480}\right]$$

(g) by inserting the following definitions after the definition of "FS" in subsection (6):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 28—Retirement

12. Section 28 of the principal Act is amended—

(a) by striking out "a pension" from subsection (1) and substituting "a lump sum calculated in accordance with subsection (1a) and a pension";

(b) by inserting the following subsection after subsection (1):

(1a) The lump sum referred to in subsection (1) is calculated as follows:

$$LS = Pn \left[\frac{FS \times 0.91 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(c) by striking out the formula from subsection (3) and substituting the following formula:

$$LS = 5.4545 \times A \times FS \times \left[1 + \frac{0.1667 \times X}{100} \right] + Pn \left[\frac{FS \times 0.91 \times M}{480} \right]$$

(d) by inserting the following definitions after the definition of "X" in subsection (3):

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 29—Retrenchment

13. Section 29 of the principal Act is amended—

(a) by striking out "a pension" from subsection (1) and substituting "a pension and a lump sum";

(b) by inserting the following subsection after subsection (2):

(2a) The amount of the lump sum is calculated as follows:

$$LS = Pn \left[\frac{FS \times 0.91 \times M}{480}\right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 30—Temporary disability pension

14. Section 30 of the principal Act is amended by striking out "55 years of age" from paragraph *(b)* of subsection (1) and substituting "60 years of age".

Amendment of s. 31—Invalidity

15. Section 31 of the principal Act is amended—

(a) by striking out "a pension" from subsection (2) and substituting "a lump sum calculated in accordance with subsection (4a) and a pension";

(b) by striking out "a lump sum payment" from subsection (4) and substituting "a lump sum calculated in accordance with subsection (4a) and a further lump sum payment";

(c) by inserting the following subsection after subsection (4):

(4a) The lump sum referred to in subsections (2) and (4) is calculated as follows:

$$LS = Pn \left[\frac{FS \times 0.91 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 32—Benefits payable on contributor's death

16. Section 32 of the principal Act is amended—

(a) by inserting "and, if the contributor's employment was terminated by his or her death, a lump sum calculated in accordance with subsection (1ab)" after "notional pension" in subparagraph (i) of paragraph *(a)* of subsection (1);

(b) by inserting the following subsection after subsection (1aa):

(1ab) The lump sum referred to in subsection (1)*(a)*(i) is calculated as follows:

$$LS = Pn \left[\frac{FS \times 0.91 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 33—Benefits payable to contributor's estate

17. Section 33 of the principal Act is amended—

(a) by striking out paragraph *(a)* of subsection (1) and substituting the following paragraph:

(a) where the contributor's employment was terminated by his or her death—made up of the following amounts:

(i) an amount that is the greater of the following amounts:

(A) an amount equivalent to the amount standing to the credit of the contributor's contribution account; or

(B) an amount equivalent to twice the amount of the contributor's actual or attributed salary (expressed as an annual amount); and

(ii) an amount calculated as follows:

$$A = Pn \left[\frac{FS \times 0.91 \times M}{480} \right]$$

Where—

A is the amount

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(b) by striking out from subsection (2) "a lump sum payment" and substituting "a lump sum calculated in accordance with subsection (3) and a further lump sum payment";

(c) by inserting the following subsection after subsection (2):

(3) The lump sum referred to in subsection (2) is calculated as follows:

$$LS = Pn \left[\frac{FS \times 0.91 \times M}{480}\right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

FS is the contributor's actual or attributed salary (expressed as an annual amount)

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

Amendment of s. 34—Resignation and preservation of benefits

18. Section 34 of the principal Act is amended—

(a) by striking out subsections (1b) and (1c) and substituting the following subsections:

(1b) The amount of the superannuation payment referred to in subsection (1a) is made up of the following components:

(a) a component being the amount of the minimum contribution required to avoid payment of the superannuation guarantee charge in respect of the contributor under the Commonwealth Act together with interest from the date of resignation; and

(b) where the contributor was a member of the police force at any time during the period commencing on 1 January 1988 and ending on 30 June 1992—a component calculated as follows:

$$C = Pn \left[\frac{AFS \times 0.91 \times M}{480} \right]$$

Where—

C is the component

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring during the period commencing on 1 January 1988 and ending on 30 June 1992—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M is the number of months of the contributor's contribution period occurring during the period commencing on 1 January 1988 and ending on 30 June 1992.

(1c) The amount of interest referred to in subsection (1b)*(a)* will be calculated and credited to the contributor at the end of each financial year and will be calculated on the amount referred to in subsection (1b)*(a)* at the end of the first financial year and on the aggregate of that amount and the interest previously credited at the end of each subsequent financial year.;

(b) by inserting after "will be made up of" in subsection (3) "a lump sum calculated in accordance with subsection (3a) and a further lump sum made up of";

(c) by inserting the following subsection after subsection (3):

(3a) The lump sum referred to in subsection (3) is calculated as follows:

$$LS = Pn \left[\frac{AFS \times 0.91 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M is the number of months of the contributor's contribution period occurring after 31 December 1987;

(d) by striking out subsection (4) and substituting the following subsection:

(4) Where a contributor resigns after a contribution period of 120 months or more and elects to preserve his or her accrued superannuation benefits, the following provisions apply:

(a) the contributor may, at any time after reaching 55 years of age, require the Board to pay the lump sum and commence paying the retirement pension referred to in subsection (5) and, if no such requirement has been made on or before the date on which the contributor reaches 60 years of age, the Board must pay the lump sum and commence paying the pension on and from that date;

(b) if the contributor has become incapacitated and satisfies the Board that his or her incapacity for all kinds of work is 60 per cent or more of total incapacity and is likely to be permanent, the Board must pay a lump sum and an invalid pension to the contributor in accordance with subsection (5);

(c) if the contributor dies and is survived by a spouse, a lump sum and a pension must be paid to the spouse of the deceased contributor in accordance with subsection (6);

(d) if the contributor dies and is survived by an eligible child, or two or more eligible children, a pension must be paid to each eligible child in accordance with subsection (7);

(e) if the contributor dies and is not survived by a spouse but is survived by an eligible child or eligible children, a lump sum must be paid to the contributor's estate in accordance with subsection (8b) in addition to the pension payable under paragraph *(d)* to the eligible child or children;

(f) if the contributor dies and is not survived by a spouse or an eligible child, a lump sum that is the aggregate of the lump sums calculated under subsections (8a) and (8c) must be paid to the contributor's estate.;

(e) by striking out "A pension payable to the contributor under subsection (4)" from subsection (5) and substituting "The lump sum payable to the contributor under paragraph *(a)* or *(b)* of subsection (4) will be calculated in accordance with subsection (8a) and the pension payable to the contributor under either of those paragraphs";

(f) by striking out subsection (6) and substituting the following subsection:

(6) The lump sum payable to the spouse of a deceased contributor under subsection (4) will be calculated in accordance with subsection (8a) and the pension payable to the spouse under that subsection will be two-thirds of the deceased contributor's notional pension.;

(g) by inserting the following subsections after subsection (8):

(8a) The lump sum is calculated as follows:

$$LS = Pn \left[\frac{AFS \times 0.91 \times M}{480} \right]$$

Where—

LS is the lump sum

Pn is—

(a) in the case of a contributor who was in full-time employment during that part of the contribution period occurring after 31 December 1987—1;

(b) in any other case—the numerical value arrived at by expressing the contributor's employment during that part of the contribution period as a proportion of full-time employment during that part of the contribution period

AFS is the contributor's actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation

M is the number of months of the contributor's contribution period occurring after 31 December 1987.

(8b) The amount of the lump sum payable to the estate of the deceased contributor under subsection (4)*(e)* is the aggregate of—

(a) the amount standing to the credit of the contributor's contribution account; and

(b) the lump sum calculated under subsection (8a).

(8c) The second of the lumps sums referred to in subsection (4)*(f)* is calculated as follows:

$$LS = 7 \times A \times AFS$$

Where—

LS is the lump sum

A is the lesser of the following:

(a) unity;

(b) the numerical value obtained by dividing the number of the contributor's accrued contribution points by 360

AFS is the contributors actual or attributed salary as at the date of resignation (expressed as an annual amount) adjusted to reflect changes in the Consumer Price Index since the date of resignation;

(h) by inserting the following subsection after subsection (11):

(12) Where but for section 46A, benefits would be payable under the Police Occupational Superannuation Scheme to or in relation to a contributor who resigned from employment before the commencement of the *Police Superannuation (Miscellaneous) Amendment Act 2001*, the benefits payable to, or in relation to, the contributor under this section—

(a) will not include a lump sum calculated under subsection (3a) or (8a); but

(b) will include the amount referred to in section 46A(2)*(f)*.

Insertion of s. 38A

19. The following section is inserted in Part 5 after section 38 of the principal Act:

Closure of contribution accounts

38A. (1) The Board may close the account of a contributor if—

(a) the contributor has retired or resigned from employment and is in receipt of a pension under this Part; or

(b) the contributor's employment has been terminated by retrenchment or on account of invalidity and the contributor—

(i) has reached the age of 60 years; and

(ii) is in receipt of a pension under this Part; or

(c) the contributor has died.

(2) If, after a contribution account has been closed under subsection (1), a benefit becomes payable under this Part that depends wholly or partly on the balance standing to the credit of the account, the benefit will be determined on the basis of the balance that would have stood to the credit of the account if it had not been closed.

Insertion of Part 5A

20. The following part is inserted after Part 5 of the principal Act:

PART 5A
CONTRIBUTORS' INVESTMENT ACCOUNTS

Interpretation

38B. In this Part—

"**investor**" means a contributor who is making, or has made, payments under section 38C.

Payments by investors

38C. (1) A contributor whose employment as a member of the police force has not terminated may make payments under this section for the purpose of providing himself or herself or his or her dependants with additional benefits in the same kinds of circumstances as those in which benefits are provided by the Scheme.

(2) Payments under this section must be made to the Treasurer in accordance with terms and conditions determined by the Board.

(3) The Treasurer must pay into the Fund from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account established by the Treasurer for the purpose periodic payments reflecting the payments made to the Treasurer under this section with respect to the relevant period.

Investor's accounts

38D. (1) The Board must maintain accounts in the names of all investors under this Part.

(2) At the end of each financial year, each investor's account that has a credit balance will be adjusted to reflect a rate of return determined by the Board for the relevant financial year.

(3) In determining a rate of return for the purposes of subsection (2), the Board should have regard to—

(a) the net rate of return achieved by investment of the relevant division of the Fund over the financial year; and

(b) the desirability of reducing undue fluctuations in the rate of return on investors' accounts.

(4) Where, in pursuance of subsection (3)*(b)*, the Board determines a rate of return that is at variance with the net rate of return achieved by investment of the relevant division of the Fund, the Board must include its reasons for the determination in its report for the relevant financial year.

(5) Where it is necessary to determine the balance of an investor's account and the Board has not yet determined a rate of return in relation to the relevant financial year, the balance will be determined by applying a percentage rate of return on accounts estimated by the Board.

(6) A balance determined under subsection (5) will not be adjusted when a rate of return is subsequently determined under subsection (2).

(7) The Board must, within six months after the end of each financial year, provide each investor with a written statement of the amount standing to the credit of the investor's investment account at the end of the financial year and the amount by which the balance of the account has been adjusted pursuant to subsection (2) in respect of that financial year.

(8) A reference in this section to "rate of return" is a reference to a positive or a negative rate of return.

Benefits

38E. (1) An amount equivalent to the balance standing to the credit of an investor's investment account will be paid to, or to the spouse or a dependant of, the investor in circumstances determined by the Board.

(2) The payment must be made by the Treasurer from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account established by the Treasurer for that purpose.

(3) The amount paid will be charged against the investor's investment account and the Treasurer may reimburse the Consolidated Account or special deposit account by charging the relevant division of the Fund with that amount.

Amendment of s. 40—Effect of workers compensation, etc., on pensions

21. Section 40 of the principal Act is amended—

(a) by striking out "Where in relation to a particular period" from subsection (1) and substituting "Where at any time during a financial year";

(b) by striking out "the pensioner is also receiving or entitled to receive, income ("other income") of one or both of the following kinds" from paragraph *(b)* of subsection (1) and substituting "the contributor is also receiving or entitled to receive income of one or both of the following kinds";

(c) by striking out paragraph *(d)* of subsection (1) and substituting the following paragraphs:

(d) the Board must estimate the income (if any) that the contributor is likely to receive during the financial year from remunerative activities engaged in by the contributor;

(e) it must be assumed that the income estimated by the Board will be paid at a uniform rate throughout the financial year;

(f) if the aggregate of the pension and the workers compensation payments (if any) and the income from remunerative activities (paid at the rate assumed by paragraph *(e)*) exceeds the contributor's notional salary, the pension will be reduced by the amount of the excess and, if that amount equals or exceeds the amount of the pension, the pension will be suspended;

(g) at the end of the financial year the Board must determine the income from remunerative activities actually received by the contributor during that year and if, on the basis of the income actually received—

(i) the pension has been underpaid, an amount equivalent to the underpayment must be paid to the contributor or if the contributor has died, to his or her estate;

(ii) the pension has been overpaid, the amount overpaid may be deducted from future payments of pension or from any other amount to be paid to the contributor under this Act or, if the contributor has died, the amount overpaid is a debt due by the contributor's estate to the Treasurer.;

(d) by inserting the following subsection after subsection (1):

(1a) Income of a kind referred to in subsection (1)*(b)*(i) and (ii) will—

(a) in the case of workers compensation payments—be taken to include payments lawfully made to some person other than the contributor;

(b) in the case of income from remunerative activities—be taken to include—

(i) the monetary value of income that is in a non-monetary form; and

(ii) income lawfully paid to some person other than the contributor.;

(e) by striking out "Where in relation to a particular period" from subsection (2) and substituting "Where".

Insertion of ss. 42A and 42B

22. The following sections are inserted after section 42 of the principal Act:

Subsequent roll over of benefits to another fund or scheme

42A. A contributor who is entitled to benefits in the form of a lump sum that is preserved under this Act may, at any time before reaching the age of 55 years, require the Board to pay those benefits to some other superannuation fund or scheme approved by the Board.

Roll over of benefits from another fund or scheme

42B. The Board may, on such terms and conditions as it thinks fit, accept the payment of benefits on behalf of a contributor from another superannuation fund or scheme.

Amendment of s. 43—Repayment of balance in contribution account

23. Section 43 of the principal act is amended—

(a) by inserting after "no benefit" in paragraph *(c)* of subsection (1) "(other than the benefit referred to in section 34(4)*(f)*)";

(b) by striking out subsection (2) and substituting the following subsections:

(2) Where—

(a) a contributor's employment terminates or is terminated; and

(b) either immediately or after a period of preservation of the contributor's benefits—

(i) a pension is paid under this Act to the contributor; or

(ii) a pension is paid under this Act to the contributor and then, on the contributor's death, a pension is paid under this Act to the spouse of the contributor; or

(iii) the contributor's employment is terminated by death and a pension is paid under this Act to the spouse of the contributor; or

(iv) the contributor dies after a period of preservation before receiving a pension and a pension is paid under this Act to his or her spouse; and

(c) the pension, or the last of the pensions to be payable, ceases before the expiration of the period of 4.5 years after the pension, or the first of the pensions, commenced and no actual or prospective right to a pension exists and no other benefit is payable under this Act,

an amount determined in accordance with subsection (3) is payable to the contributor's estate.

(3) The amount referred to in subsection (2) is the amount that would have been payable to, or in relation to, the contributor by way of a pension or pensions during the period referred to in subsection (2)*(c)* if the pension or pensions had not ceased, reduced by—

(a) the amount of the lump sum, or the aggregate of the lump sums, (if any) paid on commutation of the pension or pensions; and

(b) the amount of the pension or pensions actually paid to, or in relation to, the contributor.

(4) When computing the amount of the pension or pensions that would have been payable during the period referred to in subsection (2)*(c)*—

(a) it will be assumed that the pension or pensions were not reduced by commutation or reduced or suspended under section 40; and

(b) the provisions of this Act for indexation of pensions will be ignored.

Insertion of s. 46A

24. The following section is inserted after section 46 of the principal Act:

Termination of the Police Occupational Superannuation Scheme

46A. (1) Contributors are not entitled to benefits under the Police Occupational Superannuation Scheme.

(2) Where—

(a) a contributor's employment terminated, or was terminated, before the commencement of subsection (1); and

(b) immediately before the commencement of that subsection preserved benefits were to be paid at some future time to, or in relation to, the contributor under this Act and under the Police Occupational Superannuation Scheme,

the following provisions apply:

(c) the Board must establish and maintain an account to be called the POSS Preserved Benefits Account;

(d) the Board must credit to the account in the name of the contributor an amount equivalent to the amount of the preserved benefits that would have been payable to the contributor under the Police Occupational Superannuation Scheme if they had become payable immediately before the commencement of subsection (1);

(e) at the end of each financial year the balance standing to the credit of each contributor in the POSS Preserved Benefits Account must be adjusted to reflect the rate of return determined by the Board under section 13 for the division of the Scheme under this Act to which the contributor belongs;

(f) when preserved benefits become payable under this Act to, or in relation to, the contributor, the Treasurer must pay from the Consolidated Account (which is appropriated to the necessary extent) or from a special deposit account to the contributor (or, if the contributor is dead, to his or her spouse or, if the contributor is not survived by a spouse, to the contributor's estate) an amount equivalent to the amount standing to the credit of the contributor in the POSS Preserved Benefits Account;

(g) the amount standing to the credit of the contributor for the purposes of paragraph *(f)* must be adjusted to the date of payment to reflect a rate of return determined or estimated by the Board under section 13.

Insertion of s. 47A

25. The following section is inserted after section 47 of the principal Act:

Post retirement investment

47A. (1) The Board may offer to accept money from police superannuation beneficiaries for investment with the Superannuation Funds Management Corporation of South Australia.

(2) An offer will be on terms and conditions that have been determined by the Board and the Corporation and have been approved by the Treasurer.

(3) Money accepted by the Board under subsection (1) will, subject to the terms and conditions of the offer referred to in subsection (2), be invested by the Corporation in a manner determined by it.

(4) The Corporation may enter into transactions affecting that money—

(a) for the purposes of investment; or

(b) for purposes incidental, ancillary or otherwise related to investment.

(5) Money that may be invested by police superannuation beneficiaries under this section is not limited to money received by the investor from the Scheme.

(6) The Board must, in respect of each financial year—

(a) keep proper accounts of receipts and payments in relation to money accepted by it under this section; and

(b) prepare financial statements in relation to those receipts and payments.

(7) The Auditor-General may at any time, and must at least once in each year, audit the accounts and financial statements referred to in subsection (6).

(8) In this section—

"police superannuation beneficiary" means a person who has received a benefit under this Act.

Amendment of Superannuation Act 1988

26. Section 48 of the *Superannuation Act 1988* is amended by striking out subsection (2) and substituting the following subsection:

(2) Where—

(a) a contributor's employment terminates or is terminated; and

(b) either immediately or after a period of preservation of the contributor's benefits—

(i) a pension is paid under this Act to the contributor; or

(ii) a pension is paid under this Act to the contributor and then, on the contributor's death, a pension is paid under this Act to the spouse of the contributor; or

(iii) the contributor's employment is terminated by death and a pension is paid under this Act to the spouse of the contributor; or

(iv) the contributor dies after a period of preservation before receiving a pension and a pension is paid under this Act to his or her spouse; and

(c) the pension, or the last of the pensions to be payable, ceases before the expiration of the period of 4.5 years after the pension, or the first of the pensions, commenced and no actual or prospective right to a pension exists and no other benefit is payable under this Act,

an amount determined in accordance with subsection (2a) is payable to the contributor's estate.